

Office of Thrift Supervision, Treasury

§ 545.95

short-distance relocation area of an existing office is the area that is within:

(i) A 1000-foot radius of an existing office that is within a Principal City in a Metropolitan Statistical Area (MSA) designated by the U.S. Department of Commerce;

(ii) A one-mile radius of an existing office that is within an MSA, but is not within a Principal City; or

(iii) A two-mile radius of an existing office that is not in an MSA.

(3) *Highly-rated Federal savings associations.* You may change the permanent location of, or establish a new, branch or home office if you meet all of the following requirements:

(i) You are eligible for expedited treatment under § 516.5 of this chapter. For the purposes of that section, you must meet the capital requirements under part 567 of this chapter before and immediately after you change the location of your home or branch office or establish a new branch office.

(ii) You published a notice of your intent to change the location of your home or branch office or establish a new branch office. To satisfy this publication requirement, you must follow the procedures in subpart B of part 516 of this chapter except that:

(A) Under § 516.55(d) and (e) of this chapter, your public notice must state that the public may submit comments to you and to the appropriate OTS office(s), and must provide addresses for you and for the appropriate OTS office(s) where the public may submit comments;

(B) Section 516.55(g) of this chapter, which addresses public inspections of filings with OTS, does not apply; and

(C) Under § 516.60 of this chapter, you must publish the public notice at least 35 days before you take the proposed action. If you publish a public notice more than 12 months before you take the proposed action, the publication is invalid.

(iii)(A) No person files a comment opposing the proposed action within 30 days after the date of the publication of the proposed notice, or (B) A person files a comment opposing the proposed action and OTS determines that the comment raises issues that are not relevant to the approval standards in § 545.95(b) of this chapter or that OTS

action in response to the comment is not required.

(4) *Re-designations of home and branch offices.* You may re-designate an existing branch office as a home office at the same time that you re-designate your existing home office as a branch office.

(c) *Section 5(m) of the HOLA.* If you are incorporated under the laws of, organized in, or do business in the District of Columbia and you satisfy the requirements of paragraph (b) of this section, the Director of OTS has approved your home or branch office changes under section 5(m) of the HOLA.

(d) *Maintenance of branch and home office following conversion, consolidation, purchase of bulk assets, merger, or purchase from receiver.* An existing savings association that converts to a federal savings association may maintain an existing office and a federal savings association may maintain any office acquired through consolidation, purchase of bulk assets, merger or purchase from the receiver of an association, except to the extent that the approval of the conversion, consolidation, merger, or purchase specifies otherwise.

(e) *Prohibition.* You may not file an application or notice (or utilize any exception described in paragraph (b) of this section) to establish a branch office, if you filed an application to merge or otherwise surrender your charter and the application has been pending for less than six months.

[69 FR 68248, Nov. 24, 2004]

§ 545.95 What processing procedures apply to my home or branch office application and notices?

(a) *Processing procedures.* Applications and notices under § 545.93 are subject to expedited or standard treatment under the application processing procedures at part 516 of this chapter.

(1) *Publication and posting requirements.* (i) You must publish a public notice of your application or notice in accordance with the procedures in subpart B of part 516 of this chapter. Promptly after publication, you must transmit copies of the public notice and the publisher's affidavit to OTS.

(ii) If you propose to change the location of an existing office, you must

also post a notice of the application in a prominent location in the office to be relocated. You must post the notice for 30 days from the date of publication of the initial public notice.

(2) *Comment procedures.* Commenters may submit comments on your application or notice in accordance with the procedures in subpart C of part 516 of this chapter.

(3) *Meeting procedures.* OTS may arrange a meeting in accordance with the procedures in subpart D of part 516 of this chapter.

(4) *OTS Review.* OTS will process your application or notice in accordance with the procedures in subpart E of part 516 of this chapter. The applicable review period for applications filed under standard treatment is 30 days rather than the time period specified at § 516.270(a) of this chapter.

(b) *Approval standards.* (1) OTS will approve an application (or not object to a notice), if your overall policies, condition, and operations afford no basis for supervisory objection.

(i) You should meet or exceed minimum capital requirements under part 567 of this chapter and should be at least adequately capitalized as described in § 565.4(b)(2) of this chapter, before and immediately after the proposed action. If you are undercapitalized as described in § 565.4(b)(3), OTS will deny your application (or disapprove your notice), unless the proposed action is otherwise permitted under section 38(e)(4) of the FDIA.

(ii) OTS will evaluate your record of helping to meet the credit needs of your entire community, including low- and moderate-income neighborhoods, under part 563e of this chapter. OTS may:

(A) Deny your application or disapprove your notice based upon this evaluation; or

(B) Impose a condition to the approval of your application (or non-objection to your notice) requiring you to improve specific practices and/or aspects of your performance under part 563e of this chapter. In most cases, a commitment to improve will not be sufficient to overcome a seriously deficient record.

(2) In reviewing your application and notice, OTS may consider information

available from any source, including any comments submitted by interested parties or views expressed by interested parties at meetings with OTS.

(3) OTS may approve an amendment to your charter in connection with a home office relocation under this section.

(c) *Expiration of OTS approval.* (1) You must open or relocate your office within twelve months of OTS approval of your application (or the date of OTS non-objection to your notice), unless OTS prescribes another time period. OTS may extend the time period if it determines that you are making a good-faith effort to promptly open or relocate the proposed office.

(2) If you do not open or relocate the proposed office within this time period, you must comply with the application and notice requirements of this section before you may open or relocate the proposed office.

[69 FR 68249, Nov. 24, 2004]

§ 545.96 Agency office.

(a) *General.* A Federal savings association may establish or maintain an agency office to engage in one or more of the following activities: (1) Servicing, originating, or approving loans and contracts; (2) managing or selling real estate owned by the Federal savings association; and (3) conducting fiduciary activities or activities ancillary to the association's fiduciary business in compliance with subpart A of part 550 of this chapter.

(b) *Additional services.* A Federal savings association may request, and OTS may approve, any service not listed in paragraph (a) of this section, except for payment on savings accounts.

(c) *Records.* A Federal savings association must maintain records of all business it transacts at an agency office. It must maintain these records at the agency office, and must transmit copies to a home or branch office.

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§ 545.101 Fiscal agency.

A Federal savings association designated fiscal agent by the Secretary of the Treasury or with Office approval by another instrumentality of the United States, shall, as such, perform such